

REMARKSI. Formal Matters:

Claims 1, 3, 5, 7 – 10, and 15 – 22 are pending in the application.

Claims 11 has been amended in response to a rejection under 35 USC 112, 2nd paragraph, to delete the term “absorbent” in line 3, as further discussed below. No new matter is believed to be added by this amendment.

II. Claim Rejection – 35 USC 112, 2nd Paragraph:

Claims 11- 22 have been rejected under 35 USC 112, 2nd paragraph, on the basis that Claim 11 contains a term (“said absorbent material”) that does not have antecedent basis in the claim. Claims 12 – 14 have been previously canceled; therefore the rejection will be considered as applying to Claims 11 and 15 – 22.

Applicants have amended the term “said absorbent material” in Claim 11 to instead be “said material”. The amended term has antecedent basis in, and refers to, the term “adsorbent material” in line 1 of the claim. Claims 15 – 22 directly or independently depend upon Claim 11. This amendment is therefore believed to overcome the rejection to Claims 11 and 15 – 22.

III. Claim Rejections – 35 USC 102:

Claims 1, 3, 5, 7 – 11*, and 15 – 21 have been nonfinally rejected under 35 USC 102(a) as being anticipated by Murphy (US Patent 5,635,196). (* Summary paragraph 6 of the July 25, 2002 Office does not refer to Claim 11, however paragraph 7, which more specifically address the bases for rejection, does.)

(a) Claims 1, 3, 11, and 15

Claims 1, 3, 11, and 15 have been nonfinally rejected under 35 USC 102(b) as being anticipated by newly cited art - US Patent 5,635,196 (Murphy). The Office Action states that Murphy discloses the use of an odor controlling substance where glutaraldehyde is impregnated into a silica desiccant (Column 2, lines 37 – 64, of Murphy).

In response, Applicant wishes to draw attention to Murphy’s requirement that the desiccant particles are impregnated with high levels of glutaraldehyde. The specification at Col. 2, lines 44 – 50 discloses a product containing 31% glutaraldehyde and 38% desiccant. At Col. 3, lines 48 – 53,

Murphy discloses that the silica desiccant preferably is "impregnated" with a concentrated aqueous solution of glutaraldehyde, generally from 25% to 75% glutaraldehyde.

The particles of the present invention are not "impregnated", but rather are "doped" with low levels of dopant material. Doping, as understood in the art, refers to the addition of very low or trace levels of impurities into a base material, which changes the characteristics or behavior of the base material. The specification discloses that dopants are used at low concentrations, as would be expected in the art, such as 1 to 1000 ppm (page 4, paragraph 3). The level of glutaraldehyde exemplified by Murphy at Col. 2 is approximately 0.8 parts glutaraldehyde to 1 part silica - a level that far exceeds the impurity levels of dopant in Applicant's invention.

The silica desiccant particles of Murphy are not "doped" with low levels of impurity as claimed by Applicant, but rather are impregnated with high levels of material (i.e., the glutaraldehyde). Therefore, Murphy does not anticipate the present invention.

Furthermore, it would not have been obvious to modify Murphy by reducing the level of glutaraldehyde to a low, impurity level consistent with dopants. The glutaraldehyde in Murphy is used as a disinfectant. The impregnated desiccant particles are intermixed with particles of superabsorbent polymer. A portion of the glutaraldehyde transfers from the impregnated desiccant particles to the superabsorbent polymer particles, which is said to aid in distribution of disinfectant throughout the composition. Reducing the level of glutaraldehyde to a dopant level would be expected to significantly reduce or eliminate the efficacy of the glutaraldehyde as a disinfectant. Applicant asserts there is no teaching in Murphy to use low, dopant-levels of aldehyde, and there is also no suggestion that using such low levels of glutaraldehyde would improve the adsorbency of silica or the other claimed adsorbent particles.

(b) Claims 5, 7, 16, 17, and 18

Claims 5, 7, 16, 17, and 18 were rejected as being directed to a non-selected species of the Markush groups of Claims 1 and 11. This rejection appears to fall under 35 USC 112, 2nd paragraph, rather than 35 USC 102 (note - the rejection was presented in the Section 102 section of the Office Action). Applicants will address the rejection as if it had been specified as falling under 35 USC 112, 2nd paragraph.

Regarding Claims 5 and 16, the claimed "alkali and alkaline earth metal salts and their esters, ammonium salts, and amides thereof" can and are intended to be considered as derivatives of the fatty acids specified in Claims 1 and 11, respectively.

Regarding Claims 17, the claimed "amines and their salts" are expressly included in the Markush group of Claim 11 (as amended). Claim 17 depends upon Claim 15, which depends upon Claim 11. Claim 15 specifies that the adsorbent material is silica. This presents no Markush group problem for Claim 17 because Claim 17 selects the dopant material - which is a different component of the invention than the adsorbent material selected in Claim 15. Applicant submits that the selection of species in Claim 17 has proper support in the preceding claims.

Claims 7 and 18, are directed toward selection of certain heterocompounds. The heterocompounds are expressly included in the Markush groups of Claims 1 and 11, respectively. Claims 7 and 18 also depend upon Claims 3 and 15, respectively, which specify silica as the adsorbent material. However the adsorbent material is a separate component than the dopant. Applicant submits that the selection of species in Claims 7 and 18, respectively, has proper support in the preceding claims.

(c) Claims 8 and 19

Claims 8 and 19 are directed toward an odor adsorbing material wherein the pH is 7 +/- 0.5. Applicant submits these claims are novel over Murphy for the reasons set forth above for Claim 1 et al.

It is also Applicant's position that there is nothing in Murphy to indicate that the particles are not necessarily within the claimed pH range.

(d) Claims 9 and 20

Claims 9 and 20 are directed toward a dopant that has more than one active group. Applicant submits these claims are novel over Murphy for the reasons set forth above for Claim 1 et al.

(e) Claims 10 and 21

Claims 10 and 21 are directed toward a composition containing two or more odor adsorbing materials. The Office Action indicates that the requirement for two or more odor absorbing materials would be met because Murphy discloses compositions containing two or more "particles". Applicant submits these claims are novel over Murphy for the reasons set forth above for Claim 1 et al.

Additionally, in order to avoid any unintended ambiguity in interpretation of the claims, Applicant wishes to clarify that Claims 10 and 21 require two or more "different materials. Two or more particles of the same composition would not constitute different materials as required in Claims 10 and 21.

IV. Claim Rejection – 35 USC 103

Claim 22 has been rejected under 35 USC 103(a) as being obvious over US Patent 5,407,442 (Karapasha) in view of Murphy.

Applicant maintains that Claim 22 is unobvious over the cited art because Murphy does not disclose a doped odor controlling material as required according to the claim. The rationale for this is the same as discussed above in connection with Claim 1 et al.

Conclusion:

Applicant respectfully submits that the above amendment and remarks are fully responsive to the rejections stated in the outstanding Office Action. Reconsideration and withdrawal of the pending rejections, along with allowance of the pending claims, are requested.

Respectfully submitted,

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

11. (thrice amended) An absorbent article comprising at least one adsorbent material, said material selected from the group consisting of silica, alumina, silicates, natural and synthetic aluminosilicates and mixtures thereof, said ~~absorbent~~ material being doped with one or more dopants selected from the group consisting of fatty acids and their derivatives, amines and their salts, ammonia and salts thereof, alcohols, aldehydes, ketones, heterocompounds containing at least one nitrogen, sulfur or oxygen atom, and mixtures thereof.